

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

Latasha Holloway, et al.,

Plaintiffs,

v.

City of Virginia Beach, et al.,

Defendants.

Case No. 2:18-cv-0069

DEFENDANTS' NOTICE OF NEW AUTHORITY

Defendants respectfully ask this Court to take notice of new controlling law that affects this case. Plaintiffs allege that the at-large system used to elect members of the Virginia Beach City Council violates Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. (*See, e.g.*, Amend. Compl. ¶ 1, ECF No. 62.) Plaintiffs seek to enjoin Defendants from “administering, implementing, or conducting any future elections in the City of Virginia Beach under the current at-large method of election[.]” (*See* Amend. Compl. p. 16; *see also* Pls.’ Proposed Conclusions of Law at ¶ 41, ECF No. 238.)

On March 18, 2021, Governor Ralph Northam signed Virginia General Assembly House Bill 2198, now Acts of Assembly Chapter 225, into law (*see* Exhibit A). This legislation amends Section 24.2-222 of the Virginia Code to, in relevant part, prohibit at-large voting for candidates “in a city or town that imposes district-based or ward-based residency requirements for members of the city or town council.” (Exhibit A at 1:44-46.) Acts of Assembly Chapter 225 will take effect on January 1, 2022, before the next City Council election on November 8, 2022. *See Elected Offices and Terms: Schedule of General Elections*, CITY OF VIRGINIA BEACH, <https://www.vbgov.com/government/departments/voter-registrar/elections/>

Pages/elected-offices-and-terms.aspx (last visited Mar. 22, 2021). Virginia Beach's current at-large system includes district-based residency requirements. (*See* Amend. Compl. ¶ 21.) Therefore, by operation of law, as of January 1, 2022, and without further action of the Virginia Beach City Council or the Virginia General Assembly, the City of Virginia Beach will be prohibited by Acts of Assembly Chapter 225 from conducting future elections for City Council under the challenged electoral system, and will instead have a seven-district ward system with only the voters who reside in each ward eligible to vote for the ward representative. The current three at-large seats and the Mayor seat are unaffected by this legislation.

For these and other reasons, Acts of Assembly Chapter 225 moots Plaintiffs' challenge to the City's pre-existing at-large residence system, and compels this Court to withhold or stay adjudication of or dismiss this case. "A case can become moot either due to a change in factual circumstances, or due to a change in the law." *Simmons v. United Mortg. & Loan Inv., LLC*, 634 F.3d 754, 763 (4th Cir. 2011) (quoting *BankWest, Inc., v. Baker*, 446 F.3d 1358, 1364 (11th Cir. 2006)) (internal quotations removed). The City's current at-large system is no longer legally permissible as a matter of state law, and accordingly this Court's adjudication of whether that system violates Section 2 of the Voting Right Act is moot.

DATE: March 22, 2021

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of the filing to:

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